Ordinance 53-03

# ORDINANCE NO.5303

#### By: Mr. Rohyans

An Ordinance to authorize the Mayor and Auditor to enter into a contract with Schottenstein, Zox and Dunn for the purpose of advising the City regarding contracts with gas and electric providers and to appropriate \$3,000 from the unencumbered General Fund to fund such contract.

### BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

<u>Section 1.</u> That the Mayor and Auditor are hereby authorized and directed to enter into and execute on behalf of the City a contract with Schottenstein, Zox and Dunn for the purpose of advising the City regarding contracts with gas and electric providers.

<u>Section 2.</u> That the amount of \$3,000 should be and hereby is appropriated from the unencumbered General Fund to fund said contract.

Section 3. That this Ordinance shall take effect and be in force from the earliest period allowed by law.

2003 Passed:

President of Council

Attest Clerk of Courcil

9/23 2003 Approved:

7.22.03 First reading 9.09.03 Becond Reading 9.23.03 Third Reading Passed

David H. Madison, Mayor

## RECOMMENDATION OF PLANNING COMMISSION APPLICATION NUMBER: 549 SEPTEMBER 22, 2003 <u>6:00 P.M.</u>

Present:

Gerald Swedlow, Chairman Pete Foster Mike Paplow Gareth Vaughan Dorothy Pritchard, Planning Officer Chris Hermann, City Planner Kathy Rose, Building Department Manager

On Behalf of Applicant (T-Mobile): Lou Siyufy Mike Flannigan Paul Blanker Heather Weber, Attorney

Mr. Foster recommended approval of the Bexley House location, seconded by Mr. Paplow. Roll call: Yes -1: Mr. Vaughan: No -3: Mr. Foster, Mr. Paplow and Mr. Swedlow.

Mr. Swedlow stated that if Council approves the ordinance, the Planning Commission recommends that they send it back to this Commission for environmental review.

Mr. Paplow stated that an unscreened installation is not acceptable.

Ms. Weber stated that environmental review does not apply to a PUR district.

Mr. Swedlow stated that it does if that is what Council incorporates in their ordinance.

Mr. Siyufy stated that according to the proposal as defined by Mr. Gross, there is no environmental review. They have a recommendation from the Planning Commission and now the Commission wants them to go back to Council and then back to the Planning Commission for another recommendation.

Mr. Swedlow stated that the Commission does not want to design the solution. It is not their job. The problem is there is a general feeling that what is being proposed is not acceptable—not from a location standpoint, but in screening—or maybe it has to go from east to west. They were trying to come up with a method in which the applicants would not be bounced back and forth, but in order to do that, the applicants now have to take a recess, He stated that the Commission would not recommend what is currently before them, even if they approved the Bexley House location. The applicant would have to

come back and show them what is acceptable and they would vote yes or no on that as a recommendation. The problem with doing that tonight is they would have to redesign and the applicant would have to agree. If the applicant wants to avoid going back and forth, the Commission can take a fifteen minute break and the applicant can come back with a bottom line and the Commission will vote yes or no. Otherwise, the recommendation to Council is if Council approves the location, it is the Planning Commission's recommendation, that Council send it back for environmental review. If Council agrees to that, they would then incorporate that requirement as part of the ordinance. Council may not agree to that. They may approve or reject it.

Mrs. Pritchard stated that Lyonsgate, Columbia Place, a large portion of Capital University, (because a large portion is PUR), CSG, Bexley House and Crescent Ridge are PUR and that comes back to the Planning Commission whenever there is a change. If they want to make a change to the PUR, they come to Mrs. Pritchard, she writes an ordinance that goes to Council and Council flips it to the Planning Commission.

Ms. Weber asked if this is done for a utility installation?

Mrs. Pritchard stated for any change. She stated that she would have to argue that residential uses are permitted in a PUR, but they regulate those residential uses.

Ms. Weber stated that her argument about permitted use is completely separate from the utility installation. She is saying that if the Commission tells her that they have to appear under 1264.21, then she will say they are a permitted use. Putting all that aside, she will say that she really thinks that it is 1228 and that they are a public utility and that is the process they should be following, not both, because the code does not reference cross sections as they also need to comply with 1264.21.

Mr. Siyufy stated that he would take the Commission up on their fifteen minutes.

Mrs. Pritchard stated that the Commission has already voted no and they would have to rescind their vote.

Mr. Swedlow stated no because they are talking about their screening.

Mr. Foster stated that in the past, the Commission has asked people to submit drawings that are accurate and that are dimensioned that truly show everything that is necessary. For instance, if they screen this and someone needs to come work on this at night, does it necessarily need some sort of emergency light fixture. If so, they need a cut sheet on the light fixture. They need to know that that light fixture is not going to, for some reason, spill out and go in the neighbors' bedroom window. They are not going to come up with that in fifteen minutes.

Mr. Siyufy stated that they would come back with a theory.

Mr. Paplow stated that in the past, the Commission has required a complete set of drawings, material samples and cuts and say that this is how they are proposing to do their plan and then there is the reaction to it by the Commission. So, instead of a blank slate approach, there is a pretty well established direction from their point and many times it is derived by staff. If it is done with enough input from staff and staff's recommendation is that this is a pretty good way to go, that is the direction they need to follow.

Mr. Siyufy stated that his intent was to come back and get something theoretically agreed upon by everyone. By the time they get to Council, he will have drawings in hand.

Mr. Swedlow stated that sometimes they permit staff to make the decision as to lighting.

Mr. Foster stated that if they surrounded this with a 10' high stucco structure that is 6' away from all the antennas, in the past it has been what color is the stucco? What color is the metal coping on the top? What kind of light fixtures inside? Is there a door? Where is the door located? Is it something that can be seen from the street or the neighbors? There are a lot of little issues all of a sudden for this enclosure. Other people have had to come forward with samples and colors and cut sheets and there is a lot of homework that is not going to happen here tonight. He can appreciate the applicant saying they can agree on a direction they would like to present, but the Commission has to have something in front of them that is accurate.

Mr. Paplow stated that if the parties look at what is going up on Maryland now, which is the screening, it is all metal in terms of framing and everything else. One of the things the applicants said was that metal might not work. The parties are at a point where working with staff, they can probably get 90% there with something that is going to work because they are going to give their recommendation, but it is awfully hard to come up with that in fifteen minutes even in terms of general guidelines for height.

Mr. Swedlow stated that they had the recommendation that Council disapprove the Bexley House location. If, on the other hand, Council nevertheless approves the Bexley House location, the Commission recommends that Council send it back to the Planning Commission. Assuming they do that, which they may not, then the parties would meet with and satisfy Mr. Hermann, then they would call a special meeting and the parties won't have to wait until the fourth Monday in October and chances are they will approve whatever Mr. Hermann recommends.

Mr. Siyufy asked if they could get that special meeting in prior to the next time that Council meets?

Mr. Swedlow stated that it only comes back to this Commission if Council so directs. Council may just vote that it is okay as presented.

Mrs. Pritchard stated that the next Board of Zoning Appeals Meeting is October 9<sup>th</sup>.

Mr. Blanker stated that they would be meeting with the Engineering & Plats Committee tomorrow.

Mr. Swedlow moved that notwithstanding the Commission's recommendation against the Bexley House location, if Council approves the Bexley House location, it is the Commission's recommendation that the approval of the environmental matters, not including health issues, be submitted to the Planning Commission for approval.

Mr. Vaughan seconded the motion.

Roll call: Yes -4: Mr. Vaughan, Mr. Foster, Mr. Paplow and Mr. Swedlow: No -0.

## PARTIAL MINUTES BOARD OF ZONING APPEALS OCTOBER 9, 2003 APPLICATION: 214

**Present:** 

James Merkel, Chairman Peter Bardwell Tom Lewis Bill Jones Joe Kuspan Mike Simpson David Long, Director of Building Services Dorothy Pritchard, Zoning Officer Karen Bokor, Architectural Consultant Kathy Rose, Building Department Manager

<u>On Behalf of Applicant: T-Mobile</u> Heather Weber, Attorney Michael Flannigan Paul Blanker Lou Siyufy Keith McCombs

Application Number: 214 – Applicant: T- Mobile – Owner: Bexley House Apartments – Location: 2877 East Broad Street – Request: The applicant is seeking a recommendation for approval from the Board of Zoning Appeals to Bexley City Council for six 15' high telecommunications antennas, which would be located on the roof of the east wing of the building and a radio cabinet placed on the ground on the south side of the east wing.

Mike Flannigan, Heather Weber, Paul Blanker, Lou Siyufy and Keith McCombs were sworn in at this time.

Mrs. Pritchard stated that this is an application before Bexley City Council for revision to a Planned Unit Residential structure. That structure is the property known as Bexley House on the corner of Broad and Gould. When there is a proposed revision to a PUR structure or site plan, it is the charge of the Board of Zoning Appeals and the Planning Commission to review the application and make a recommendation back to City Council either for a recommendation for approval or a denial. The Board is not actually voting on whether or not it will be approved or disapproved, but merely the recommendation that they would like to go to City Council. She also believes she made an incorrect statement at the last Board of Zoning Appeals Meeting when she stated that if either the Planning Commission or the Board of Zoning Appeals gives a negative recommendation, it takes a super majority of City Council. She has been advised by the City Attorney that because

it is a modification and not a new application, that is not the case. A simple majority of Council will be able to approve it regardless of the recommendation of either body.

Attorney Weber stated that they are seeking approval of the antennas located on the Bexley House Apartments. They do have some new evidence to introduce. She is not sure if any of the members have been by the site, but they did put the antennas on the top temporarily just so everyone could see what they would look like.

Mrs. Pritchard stated that this was a recommendation that came from one of the boards that the applicant look at the potential of putting these on the west portion of the building rather than the east, which they have done.

Mr. Merkel stated that was mentioned at the last meeting.

Ms. Weber stated that they put them on the west side of the property.

Mrs. Pritchard stated that City Council approved the temporary installation of these antennas. It was so that everyone would have an opportunity to go out and look at them.

Mr. Merkel stated that they are just temporary.

Mrs. Pritchard stated that they are just up for a matter of a day or two days.

Mr. Siyufy stated that they are going to leave them up from the 9<sup>th</sup> through the next City Council meeting so that everyone could see them at their leisure. They actually went out there today and took photos, which the Board has before them this evening.

Ms. Weber stated that the antennas are placed on the west end of the property where there is a lot of screening from the foliage and even though there are leaves that fall, there are still limbs that will provide screening. She does believe that there is very little impact on the community with the placement of the antennas on this side of the property.

Mr. Jones asked if the photographs were exactly as the antennas would appear in their final installation?

Mr. Flannigan stated that this was a mock up in which they put one antenna on each pole. A final installation will take a slightly wider mount by maybe 2'.

Mr. Bardwell asked for a summarization of what will look different than what they have seen.

Mr. Flannigan stated that on each post, there would be two antennas instead of one.

Mr. Siyufy stated that C-3 in the booklet that was distributed is the drawing that would be modified, which they are hoping to get incorporated into the record. They had talked about moving the antenna structure to the center of the west tower. Since the last

meeting, they have modified the drawings, (Exhibit C in this book). It shows the modified antenna design moving all the antennas to the center of the west tower, which is the approximate location of the mock structure, which they took photos of today.

The parties reviewed the booklet and photographs.

Mr. Siyufy stated that there would be a total of six vertical antennas.

Mr. Flannigan stated that in the final installation, there would be two antennas per sector.

The parties discussed the application in detail. This discussion was not transcribed as all parties were talking at once and referring indirectly to drawings and other materials.

Mrs. Pritchard stated that there are people in the audience that would like to speak. For the record, the comment was made that anyone would only ever see two antennas at a time. She asked if that were correct if she is southbound on Merkle north of Broad? When she was coming down Merkle, she believes she saw what would be all antennas.

Burton Hirsch was sworn in at this time. He lives at 43 South Gould. Walking and driving, one can clearly see three posts. He drove from Nelson Road and the trees provide cover from that direction, but as the leaves fall, they will be visible. It is worse coming east. Walking they are definitely visible.

Mrs. Gordon Lemmert, 35 South Gould stated that it amazes her to think there cannot be another location on which these things could have been erected. When she saw the towers on the west building, they were not that obnoxious looking. It is everything else entailed in the operation of those things—the trucks that come in and out of the gates, which make noise, maintaining anything that goes wrong, perhaps anytime at night. She has no idea what the hours are when they have to attend to those things. It just seems like there should have been some other location to be considered. They get a lot of noise from trucks delivering things, maintenance, rubbish collection and all those things. They would not be affected as much if it were put on the west building.

Mr. McCombs stated that the antennas are basically like any radio device. If there are no problems, technicians won't even be there. Routinely they are self-operating and there is no need for a technician to be on site and there is no noise, no air conditioning unit. The technician would drive a regular pickup truck. If there is an outage and a technician needs to switch out a radio, there is a possibility he would go in the cabinet for that.

Mrs. Lemmert stated that if the gates were properly maintained, that would help because they've had terrible problems for three or four weeks now off and on. Those gates make a terrible squeaking noise and her bedroom window is right there.

Mr. McCombs stated that he believes they have located the equipment a block to the west of the house so they are actually on the other side of the property line—the west side of the property line rather than being directly behind it.

Mrs. Pritchard stated that this is the second time the Board has considered this application. She requested that the Board make a determination based on what has been submitted tonight and if they feel there are other revisions they would like to see then she would ask them to table.

Mr. Siyufy stated that if the approval was contingent upon them proposing a less obtrusive coaxial run, they would be happy to make a proposal to Council based on the Board's recommendations and options.

Mrs. Bokor stated that she would not be comfortable proposing those types of conditions. She is not qualified to do that. She therefore asked that the Board accept what was presented, deny it or table it.

Mr. Bardwell stated that he would agree with Mrs. Bokor's recommendation and he will not be voting in favor of this. His objection is far less how the towers themselves appear on the roof and far more the issue of the coaxial cable crossing the roof. He understands that they offered to make solutions to that, but he also recognizes that this has been heard before and this is the opportunity for the applicant to show the Board once and for all how they propose doing it. Staff is not comfortable reviewing it following any approval on its part so he would have to say that this was the applicant's opportunity to show how they would be resolving it and unfortunately it has not been resolved to his ability to make a recommendation to Council.

Ms. Weber stated that the coaxial cable was not an issue last time and it is being raised this time, so they did not have the opportunity to change their proposal based on the cable lines.

Mr. Bardwell stated that the entire focus the last time was a much broader concept of whether towers on top of Bexley House, in the broadest sense, would be acceptable that some of the other technical aspects of that weren't addressed because those weren't the fundamental issue at the time.

Ms. Weber stated that she understands Mr. Bardwell's position and disagrees.

Mr. Hirsch stated that the neighbor at Merkle and Broad did not get notice. He spoke to the owner of the building at 33 South James, which is as tall as the Bexley House and T-Mobile never even spoke to him. At the last meeting this information was discussed. The owner of 33 South James already has a Sprint tower there and he said he would gladly speak to T-Mobile. If they are arguing that T-Mobile is going to get better reception to the residents of Bexley, at the corner—it's the end of Bexley and it's going to give a better reception to east Columbus. He does not understand the logic. They are talking about charts the computer drew showing how it would get a better reception if it was on Bexley House versus the high school and the American tower.

Mr. Lewis stated that he was not in favor last month and is even less in favor this month. It shows him the lack of sensitivity of the architectural application and the coaxial cables made it even worse. He does not have any faith that this is in the proper direction.

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Mr. Siyufy stated that they have spent a lot of time and a lot of effort modifying this design to try to work with the Board to come up with a more reasonable solution, at the same time serving the needs of their customers who live and work in this community.

Mr. Merkel stated that he is more in favor this month than he was last month in the location where they put it. He does have a problem with the cables going across the roof. For that reason, he would have to deny it tonight with what has been presented.

Mr. Jones stated that very little detail has been presented. There are some gross generalities of some 8' high fence and a coaxial cable, but there is no detail of how it is going to be covered. They are saying they will match the brick. There is no detail on the architectural drawing. This drawing is completely different than the other drawings as far as where the coax cable is going.

Mr. McCombs stated that it is not the exact same location because on the last application they were on the east side and on this side the west side extends out further.

Mr. Jones stated that one drawing shows one thing and another drawing shows another.

Mr. McCombs stated that it depends on what angle one is looking at the drawing. He then reviewed the elevations with the Board.

Mr. Merkel stated he has not seen a drawing showing where those cables are and he does not care for them going across the roof. The antenna in the new location from his personal view is much better than it was last month.

Ms. Weber asked if they could table it and come back at a later time.

Mr. Simpson stated that this is just a recommendation. There is no case to pass. They either recommend or not.

Mr. Merkel stated that they would have to recommend it or deny it based on what is before them tonight.

Mrs. Pritchard stated that she believes the applicant has the right to a table.

Mr. Merkel stated that they could hold the case and go on to some other cases. He stated that he could not guarantee them that they would get approval the next time around.

Ms. Weber stated that she knows that.

Mr. Lewis and Mr. Kuspan further reviewed Elevations C-3 and C-4. The drawings are out of sync and the applicant is requesting approval while submitting incorrect information.

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Mr. Jones stated that from an architectural viewpoint, the cable will be hidden, but there is no detail.

Mr. McCombs stated that the cable is going to go up the very back of the building and does not have to go over the pitched roof. The cables are not visible unless one is on top of the building. That should not be the issue here tonight.

Mr. Jones stated that is the issue because how is that being done? This is very technical, it is not architectural. If they are going to put a piece of brake metal around the cable, what does the detail of that look like? It looks like there is an 8' high fence. What is the material of the fence? What is the color? This is all very technical, it is not architectural.

Ms. Weber and Mr. McCombs stated that this was not the issue of the last meeting. At the last meeting, the issue was the location on the building.

Ms. Weber stated that the transcript clearly shows that was the issue at the last meeting. This is why it should be going under the public utility code.

Mr. Siyufy stated that he thinks they have demonstrated for the record that they were willing to compromise their design to work with the Board and he thinks that Mr. Flannigan has done an admirable job in modifying the design of the network. They would like to request that the Board vote this evening.

Mrs. Pritchard stated that because it is simply a recommendation, there are no Findings of Fact. There would be a motion to approve and then a vote.

Mr. Simpson moved to approve the recommendation of this application as submitted to Council. Mr. Kuspan seconded the motion. Roll call: Yes -0: No -6: Mr. Bardwell, Mr. Simpson, Mr. Jones, Mr. Kuspan, Mr. Lewis and Mr. Merkel.

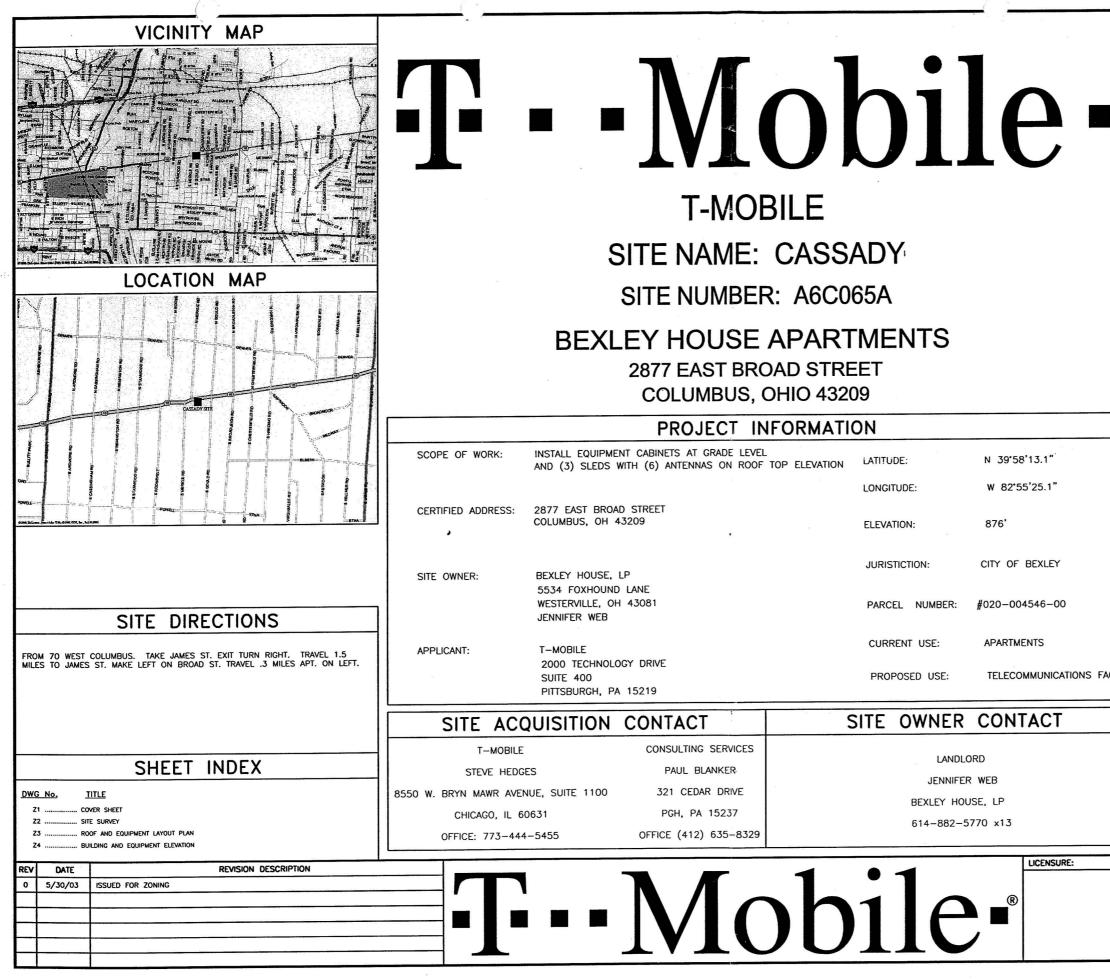
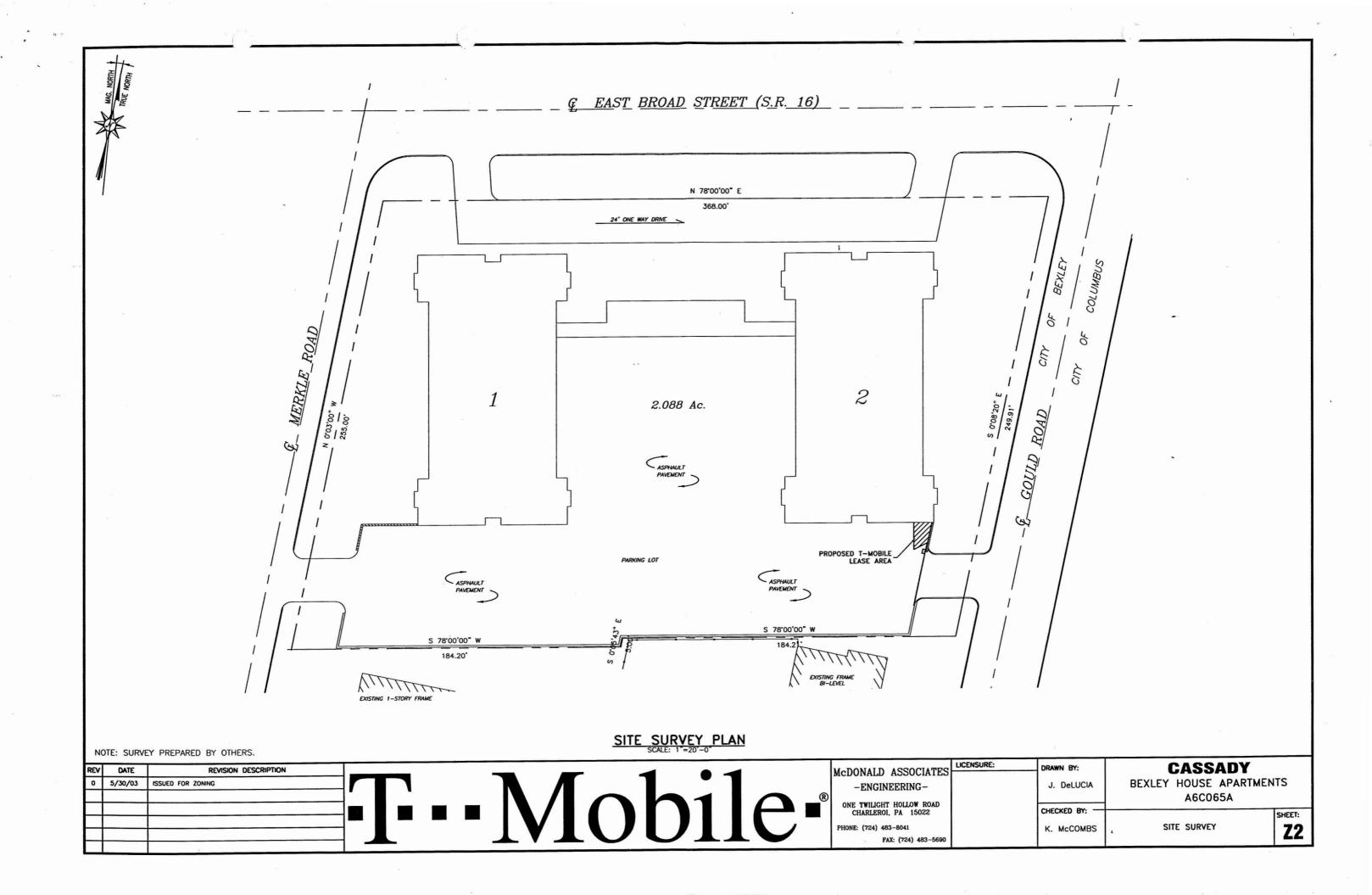
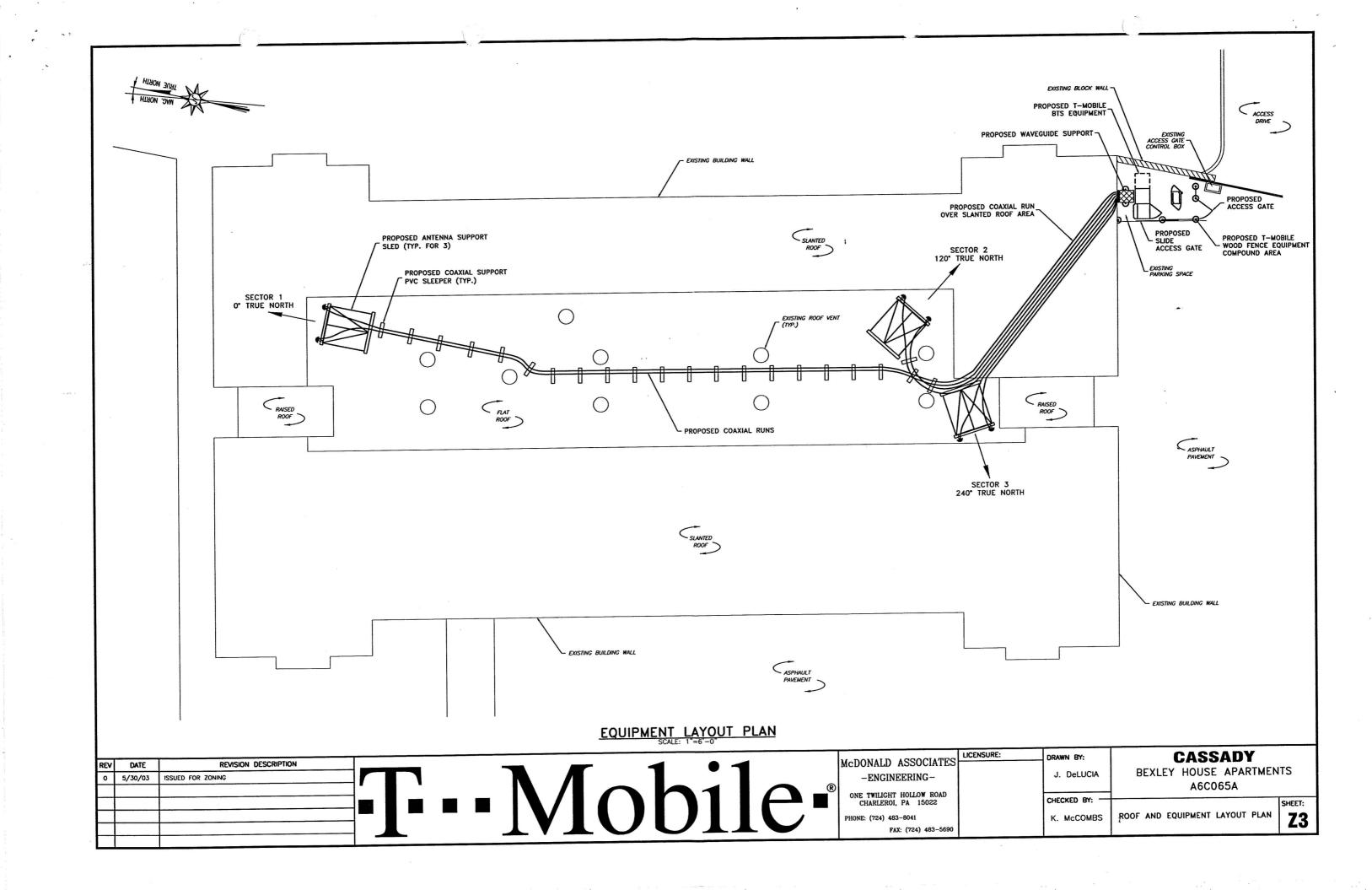
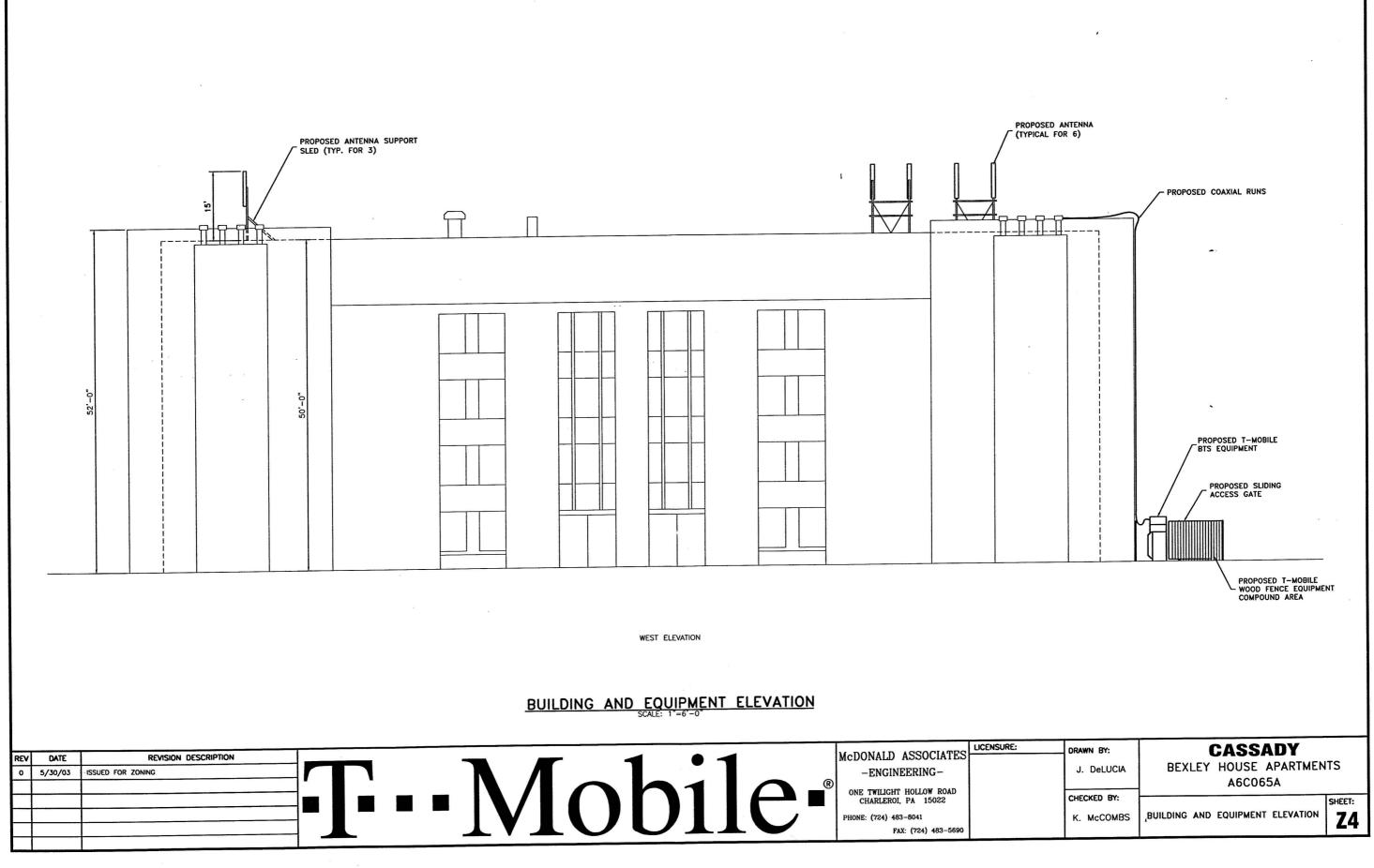
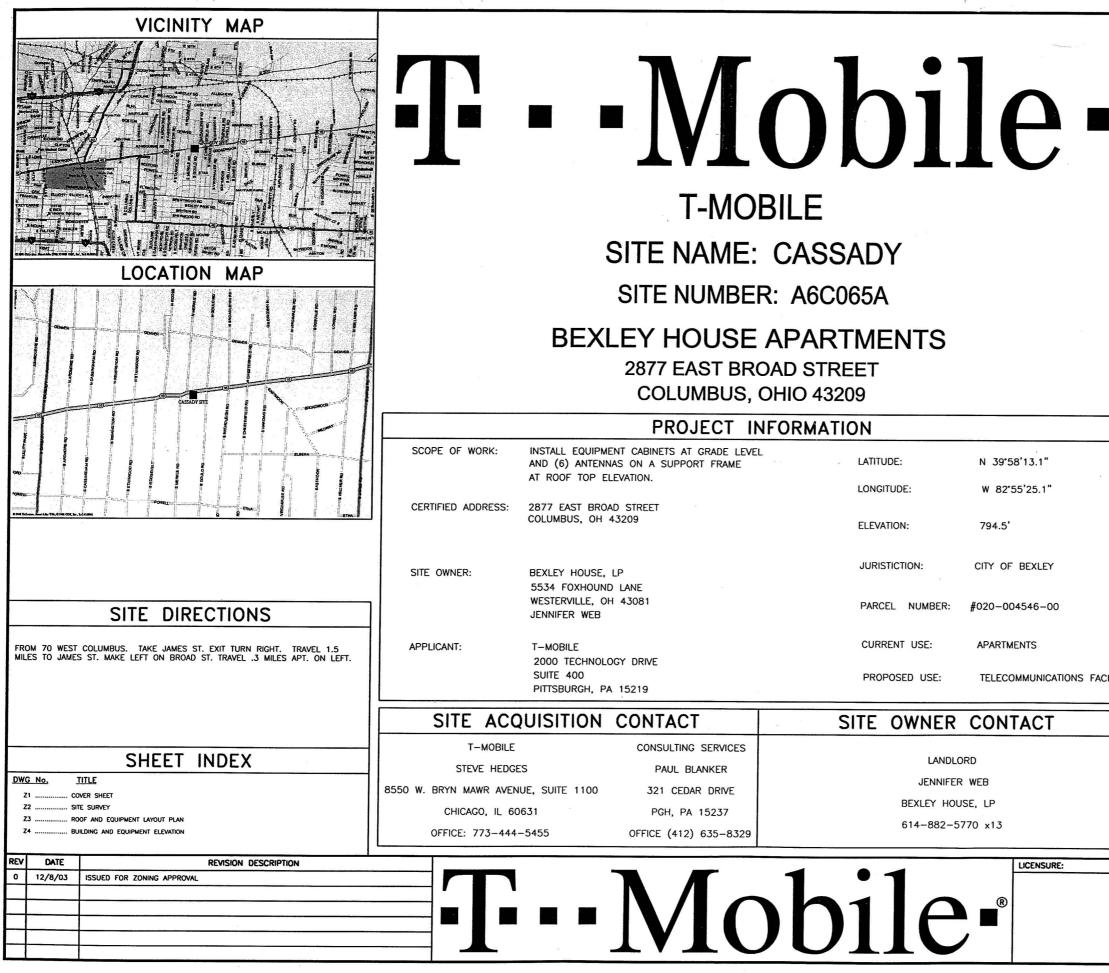


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COLUMBUS, OH 43209  PARKING  (PER 3342.28 C.Z.C, MINIMUM SPACES REQUIRED)  PARKING REQUIRED  O SPACES (EQUIPMENT ONLY)  OI-OFFICE  NOTE: SITE SHALL COMPLY WITH COLUMBUS CITY ZONING CODES  TY  PARCEL NUMBER: #020-004546-00  FLOOD MAP PANEL #: NOT APPLICABLE ZONE: NOT APPLICABLE LDN#: NOT APPLICABLE LDN#: NOT APPLICABLE  DRAWN BY: J. DELUCIA  DRAWN BY: J. DELUCIA  DRAWN BY: J. DELUCIA  EXAMPLE STREED  COMPLEMENT ON CODES  CHECKED BY: ZONING PACKAGE  SHEET:	<u>CE</u>	TIFIED ADDRESS:				
(PER 3342.28 C.Z.C, MINIMUM SPACES REQUIRED)         PARKING REQUIRED       0 SPACES (EQUIPMENT ONLY)         OI-OFFICE         NOTE: SITE SHALL COMPLY WITH COLUMBUS CITY ZONING CODES         TY         PARCEL NUMBER: #020-004546-00         FLOOD MAP PANEL #: NOT APPLICABLE         ZONE: NOT APPLICABLE         LDN#: NOT APPLICABLE         LDN#: NOT APPLICABLE         J. DELUCIA         BEXLEY HOUSE APARTMENTS         A6C065A         CHECKED BY:						
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(PER 3342.28 C.Z.C, MINIMUM SPACES REQUIRED)         PARKING REQUIRED       0 SPACES (EQUIPMENT ONLY)         OI-OFFICE         NOTE: SITE SHALL COMPLY WITH COLUMBUS CITY ZONING CODES         TY         PARCEL NUMBER: #020-004546-00         FLOOD MAP PANEL #: NOT APPLICABLE         ZONE: NOT APPLICABLE         LDN#: NOT APPLICABLE         LDN#: NOT APPLICABLE         J. DELUCIA         BEXLEY HOUSE APARTMENTS         A6C065A         CHECKED BY:	]					
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K. MCCOMBS COVER SHEET Z1		ZONING PACKAGE				
	K. McCOMB	COVER SHEET Z1				

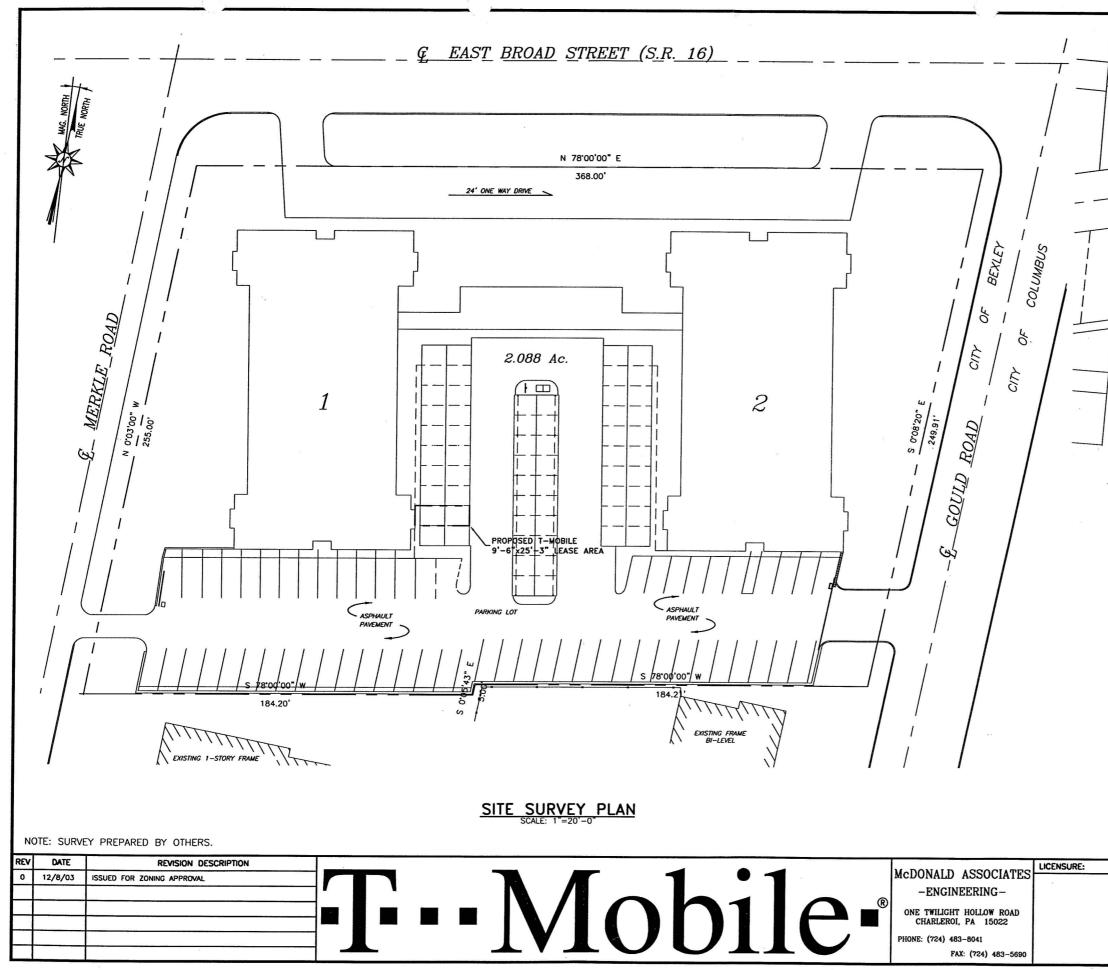




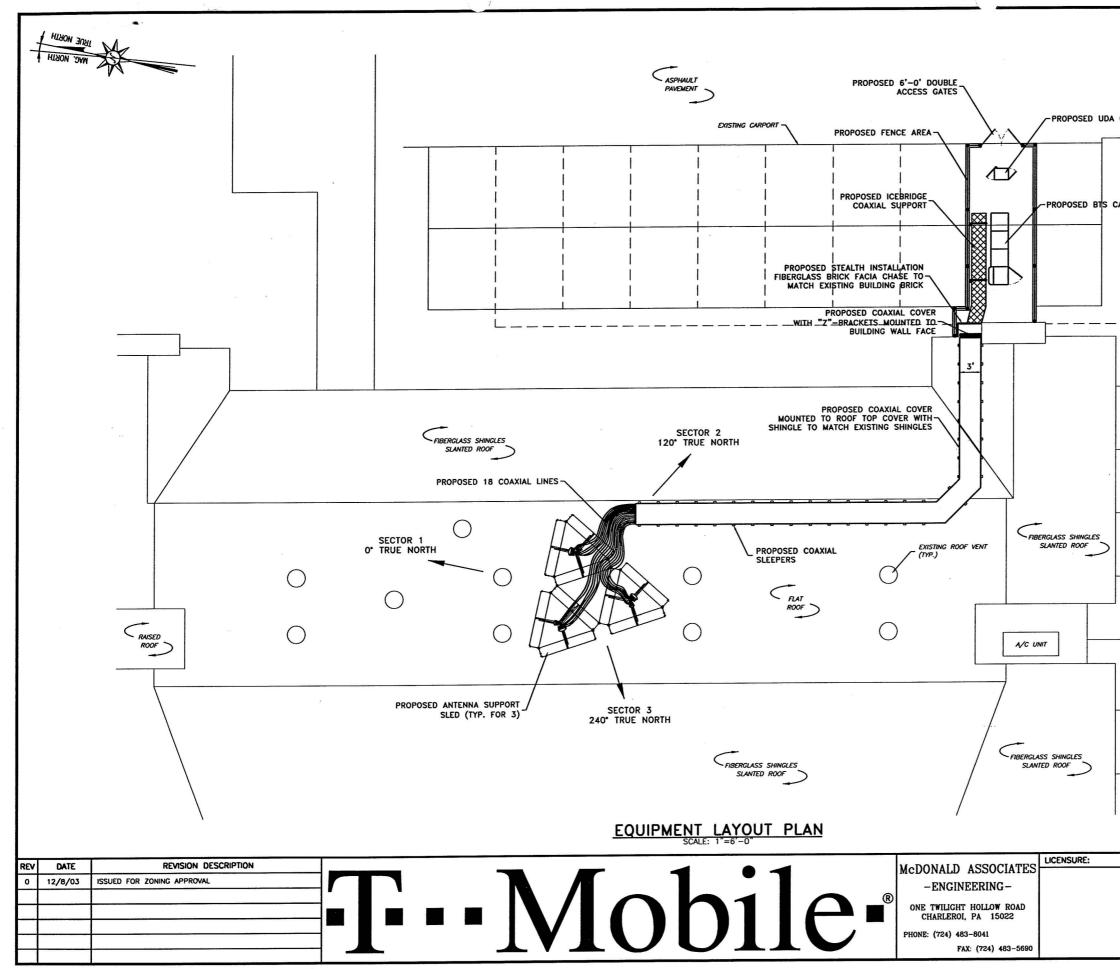




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				EAST BROAD STREET BUS, OH 43209		
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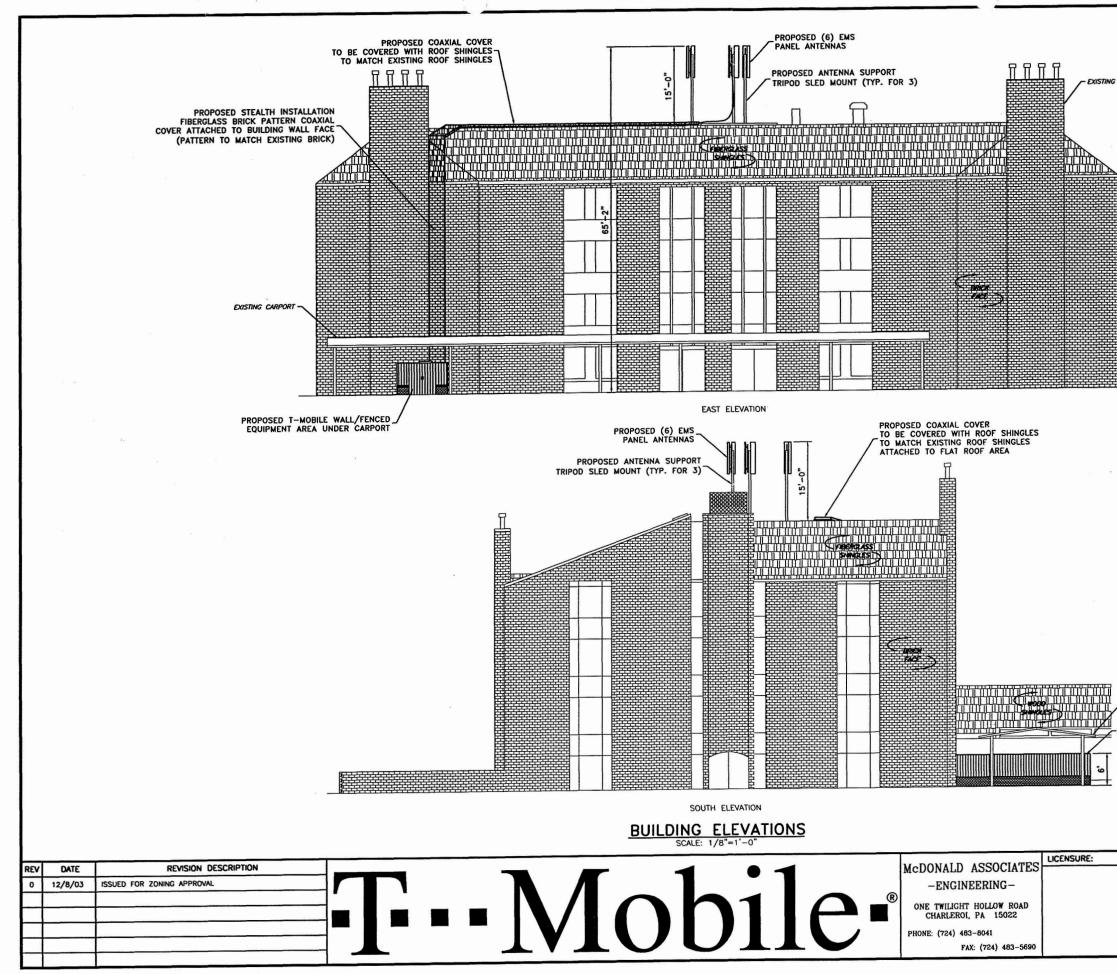


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	PROPOSED T-MOBILE LEASE AREA	
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	VICINITY MAP	
DRAWN BY:	CASSADY	
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	J. DELUCIA BEXLEY HOUSE APARTMENTS A6C065A					
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☐ PROPOSED T-MOBILE WALL/FENCED ∠ EQUIPMENT AREA UNDER CARPORT	
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